

REMARKS

Claims 1, 14 and 15 have been amended. Proper support for the amendments to claims 1, 14 and 15 can be found in the specification, at least, at paragraphs [0064] and [0064]. Claims 1 and 3-15 are pending and under consideration. Claims 1 and 14 are the independent claims. No new matter is presented in this Amendment.

REJECTIONS UNDER 35 U.S.C. §101:

Claims 1 and 3-15 are rejected under 35 U.S.C. §101 because the claimed invention is directed to non-statutory subject matter.

Regarding the rejection of independent claims 1 and 14, it is noted that claim 1 has been amended to more clearly recite that the random data is generated using the random data generator as well as outputting the generated random data to the high density optical recording/reproducing apparatus. Therefore, Applicants respectfully assert that claim 1, as amended, fully complies with the requirements set forth in MPEP 2106.

Accordingly, it is respectfully submitted that claim 1 and 14 are properly considered statutory subject matter within the meaning of 35 U.S.C. §101 and respectfully request that the rejection of claims 1 and 14 under 35 U.S.C. §101 be withdrawn.

Additionally, claims 3-13 and 41 are deemed patentable due at least to their dependency from corresponding claims 1 and 14.

DOUBLE PATENTING:

Claims 1 and 3-14 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-29 of Patent No. 7,277,545.

Applicants submit herewith a Terminal Disclaimer with respect to U.S. Patent No. 7,277,545. In view of the above, it is respectfully submitted that the rejection of claims 1 and 3-14 is overcome.

CONCLUSION:

There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.

Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 503333.

Respectfully submitted,

STEIN, MCEWEN & BUI, LLP

Date: 1/9/09

By: Douglas X. Rodriguez
Douglas X. Rodriguez
Registration No. 47,269

1400 Eye St., NW
Suite 300
Washington, D.C. 20005
Telephone: (202) 216-9505
Facsimile: (202) 216-9510